

March 2006 Litigation Report

To: Mayor McCoy & County Commissioners
 From: Bob Shillinger, Asst. County Attorney *RS*
 Date: March 10, 2006
 cc: Tom Willi, County Administrator
 Suzanne Hutton, Interim County Attorney

Summary

Number of Cases

New cases filed since last month	0	Airports	2
Cases closed since last report	1	Community Services	1
CAY active cases	60	Constitutional Officers	4
CAY Post Judgment cases	4	Engineering	7
Potential cases not yet filed	6	Growth Management	57
Outside Counsel Cases	30	Miscellaneous	4
		Personnel	3
Total Cases pending	72	Public Works	4
		Risk Management	6

New Cases	Page 2
Cases Closed	2
CAY Litigation Cases Trial & Appellate Level	2
CAY Post Judgment Cases	15
Potential Cases	16
Outside Counsel Cases	18
Ferencik, Libanoff (Ira Libanoff) (4 cases)	18
Johnson, Anselmo, (Bruce Johnson & Michael Burke) (14 cases)	19
Paul, Hastings (Bob Freilich & Derek Howard) (3 cases)	24
The Smith Law Firm (Wayne Smith) (2 cases)	25
Vernis & Bowling (D.Smits, K.Willis & S.Black) (5 cases)	26

CASES FILED SINCE LAST MONTH'S REPORT -- NONE

CASES CLOSED SINCE LAST MONTH'S REPORT

Rodriguez, Vivian v. Monroe County, Islamorada, & DOT **CA P 05-526**
Circuit Court 16th **Judge: Garcia** **Date Filed: 11/30/05**
Action for negligence due to injuries on DOT right of way.
Public Works/Risk Management **RBS**

Current Status: PL voluntarily dismissed County & Village on 2/7/06.

Next Activity: Closed.

CAY Time: 8.5 **Costs:** 0.00

CAY LITIGATION – Trial & Appellate Level
See Outside Counsel Section for Cases being Handled Jointly

Ambrose, Thora et al v. Monroe County et al **CA P 97-636**
Circuit Court 16th **Judge: Garcia** **Date Filed: 12/11/97**
Declaratory Judgment action claiming vested rights due to subdivision plats.
Subsequent appeal of summary judgment order reversed and remanded.
Growth Management/Planning **JDS**

Current Status: Status inquiry with Judge's chambers pending.

Next Activity: If needed, schedule hearing on Motion to Dismiss.

M&H Billing to date: \$30,960.98.
CAY Time: 1.0

In re: Birch Telecom, Inc. **05-12237 PJW**
U.S.Bnkcty.Delaware **Judge: Walsh** **Date Filed: 8/12/05**
Bankruptcy action by pay phone vendor which claims it owes County \$4.15 for
providing pay phones on County property.
Administrative Services/Technical Services **RBS**

Current Status: Claim deadline passed 11/4/05. County's interest \$4.15.

Next Activity: None.

Time: 1.0 **Costs:** 0.00

In re: Meghan Cole **05-43879 RAM**
Bankrtcy. S.D.Fla. **Judge: Mark** **Date Filed: 10/17/05**
Bankruptcy action by tenant of County property. County owed \$760.00 in rent.
Bankruptcy **RBS**

Current Status: County's interest too minimal to take more than passive stance.

Next Activity: Final approval of plan or discharge.

Time: 1.0 **Costs:** 0.00

Collins, C. & Sum Air Services v. Monroe County, et al **CAM-05-146**
Circuit Court 16th **Judge: Payne** **Date Filed: 6/1/05**
Declaratory judgment action regarding lease with FBO at Marathon Airport.
Airports **PJM**

Current Status: Awaiting service of complaint.

Next Activity: Voluntary dismissal by the Plaintiff after settlement of companion case is finalized.

Time: 0.5 hours **Costs:** 0.00

Cutaia, Thomas v. Monroe County, MCSO, Pretrial Services **CAK-05-617**
Circuit Court 16th **Judge: Jones** **Date Filed: 6/21/05**
Complaint for unspecified damages. Mayor not served yet.
Constitutional Officer/MCSO **RBS**

Current Status: Awaiting service.

Next Activity: Once served, determine if insurance coverage requires retaining outside counsel.

Time: 0.6 hours **Costs:** 0.00

Eads, Barbara v. Monroe County **CAP-03-117**
Circuit Court 16th **Judge: Garcia** **Date Filed: 2/27/03**
Appeal of order finding the Lowe House to be in unsafe condition.
Growth Management/Code Enforcement **RBS**

Current Status: Notice of compliance filed.

Next Activity: None at this time.

Time: 4.8 hours **Costs:** 0.00

EEOC v. Monroe County **150-2005-03773**
EEOC – Miami **Judge: N/A** **Date Filed: 9/7/05**
Charge of disability discrimination filed by an employee.
Public Works/Personnel **PJM**

Current Status: Negotiating conciliation dates.

Next Activity: Conciliation to be scheduled.

Time: 16.6 hours **Costs:** 0.00

Fuchs, Walburga v. Monroe County **CAK-01-1251**
Circuit Court 16th **Judge: Payne** **Date Filed: 10/5/01**
This is a code enforcement appeal of an OSTDS case.
Growth Management/Code Enforcement **RBS**

Current Status: The County's brief filed; case reassigned to Judge Payne.

Next Activity: Await Court's decision.

Time: 11.5 hours **Costs:** 0.00

Good, Lloyd v. Monroe County **CA K 01-977**
Circuit Court 16th **Judge: Payne** **Date Filed: 8/9/01**
Inverse condemnation action based on NROGO and declaratory judgment that owner be awarded permits for properties.
Growth Management/Planning **RBS**

Current Status: Amended case management order filed.

Next Activity: Drafting response to case management order.

M&H Billing to date: \$18,526.41 as of 10/31/05.
CAY Time: 16.2

Hardin, Michelle v. Monroe County **CA K 99-1046**
Circuit Court 16th **Judge: Miller** **Date Filed: 9/3/99**
Appeal of code enforcement decision.
Growth Management/Code Enforcement **PJM**

Current Status: Status review on pending motions.

Next Activity: Hearing on Motion to Dismiss, tba.

M&H Billing to date: \$10,241.57 thru 8/31/05.
CAY Time: 2.5

Johnson, Lloyd v. Marlene Conaway **CA K 02-1248**
Circuit Court 16th **Judge: Payne** **Date Filed: 10/30/02**
Writ of Mandamus challenging Planning Director's determination that boundary determination by alleged error requires zoning map amendment.
Growth Management/Planning **JDS**

Current Status: Status report from Judge's chambers pending.

Next Activity: If needed, schedule hearing on Motion to Dismiss.

M&H Billing to date: \$2,219.62 through 8/31/05.
CAY Time: 3.4

Kalan, Suzanne v. Monroe County **CA P 03-155**
Circuit Court 16th **Judge: Garcia** **Date Filed: 3/11/03**
Inverse condemnation action.
Growth Management/Code Enforcement **RBS**

Current Status: Held in abeyance pending BUD hearing.

Next Activity: Finalize motion for substitution of counsel of CAY for former counsel.

M&H Billing to date: \$2,855.77 as of 8/31/05.
CAY Time: 1.0

LaSalle Bank, N.A. v. Alexis & Jesus Victores & Monroe County CAP 05-373
Circuit Court 16th Judge: Garcia Date Filed: 8/29/05
Mortgage foreclosure action where County holds an inferior \$100.00 lien.
Growth Management/Code Enforcement RBS

Current Status: Sale cancelled by plaintiff.

Next Activity: Await reset or dismissal.

Time: 2.0 hours **Costs:** 0.00

McIntyre, Edward v. Richard Roth & Monroe County 80-1721-CIV-WMH
US Dist. SDFla. Judge: Hoeveler Date Filed: 7/8/80
Civil Rights action filed again then Sheriff Freeman and County for inadequate
jail facilities. Consent decree signed December 1991.
Constitutional Officer/MCSO

Current Status: Status conference held 3/3/6;

Next Activity: MCSO report on alleged deficiencies due 4/17/6.

CAY Time: 13.0 **Costs:** \$86.77 (since March 2005)

Monroe County v. R. Bernstein/Safe Harbor Marine Railway CAK-05-732
Circuit Court 16th Judge: Miller Date Filed: 7/26/05
Code enforcement lien foreclosure. Over \$221,800.00.
Growth Management/Code Enforcement RBS

Current Status: DF's answer overdue.

Next Activity: Move for default if no responsive pleading by 2/28/06.

Time: 8.6 hours **Costs:** \$576.00

Monroe County v. Matthew Bonnett CAK-05-911
Circuit Court 16th Judge: TBA Date Filed: 9/9/5
Code enforcement lien collection action authorized 10/17/04, \$78,000.
Growth Management/Code Enforcement PJM

Current Status: County's motion for summary judgment denied. DF's
answer overdue.

Next Activity: Negotiations ongoing, move for default judgment by 4/1/06 if
not successful.

Time: 6.8 hours **Costs:** \$295.00

Monroe County v. Boy Scouts of America **CA K 06-139**
Circuit Court 16th **Judge: TBA** **Date Filed: 2/10/6**
Code fine collection action authorized on 9/28/05. Fine fixed at \$408,000.00.
Growth Management/Code Enforcement **PJM**

Current Status: Defendant served 3/1/06

Next Activity: Response due 3/21/6.

Time: 1.9 hours **Costs:** \$276.00

Monroe County v. Alain Y. Depierrefeu **CAK-03-1504**
Circuit Court 16th **Judge: Jones** **Date Filed: 12/18/03**
Code enforcement foreclosure action authorized by the BOCC on 4/18/03.
Growth Management/Code Enforcement **RBS**

Current Status: Negotiations ongoing.

Next Activity: If unsuccessful, move for auction date.

V & B Fees billed to date: None **Costs:** 0.00
CAY Time: 6.6

Monroe County v. Alain Y. Depierrefeu **CAK-03-1507**
Circuit Court 16th **Judge: Jones** **Date Filed: 12/18/03**
Code enforcement foreclosure action authorized by the BOCC on 4/18/03.
Growth Management/Code Enforcement **RBS**

Current Status: same as previous entry.

Next Activity: If negotiations unsuccessful, move to schedule auction.

V&B Fees billed to date: None **Costs:** 0.00
CAY Time: 3.5 hours

Monroe County v. Jack Hagopian **CAP 03-529**
Circuit Court 16th **Judge: Garcia** **Date Filed: 10/1/03**
Code enforcement collection action authorized by BOCC on 8/20/03. Fine exceeds \$300,000.00 as of 1/1/06 and accruing at \$250.00 per day.
Growth Management/Code Enforcement **RBS**

Current Status: Settlement agreement and check received.

Next Activity: Monitor status of compliance.

Time: 42.5 hours **Costs:** \$801.70

Monroe County v. Dorothy Hough, et al **CAP-05-160**
Circuit Court 16th **Judge: Garcia** **Date Filed: 4/6/05**
Code enforcement collection action authorized by BOCC on 9/17/03. Fine fixed @ \$61,000.
Growth Management/Code Enforcement **RBS**

Current Status: Motion to compel discovery.

Next Activity: Hearing 4/5/06.

Time: 12.1 hours **Costs:** \$596.00

Monroe County v. James Jeanquenat **CAP-05 317**
Circuit Court 16th **Judge: Garcia** **Date Filed: 7/18/05**
Collection action authorized by BOCC on 4/21/04. Fine exceeds 136,100.00.
Growth Management/Code Enforcement **RBS**

Current Status: Motion for Dismiss filed.

Next Activity: Motion hearing TBA.

Time: 3.7 hours **Costs:** \$275.00

Monroe County v. Key Largo Ocean Resorts Coop, Inc. **CAP-96-260**
Circuit Court 16th **Judge: Garcia** **Date Filed: 5/20/96**
Action to foreclose a code enforcement lien.
Growth Management/Code Enforcement **RBS**

Current Status: Development agreement application being reviewed.

Next Activity: Status report due with the Court 4/1/06.

Time: 41.5 hours **Costs:** \$340.00

Monroe County v. Pedro Liz **CAK-05-420**
Circuit Court 16th **Judge: Jones** **Date Filed: 4/22/05**
Collection action authorized by BOCC on 7/17/03; fines exceed \$816,300.00.
Growth Management/Code Enforcement **RBS**

Current Status: Motion for default by court filed.

Next Activity: Hearing on County's motion for default 4/12/06.

Time: 9.0 hours **Costs:** \$555.00

Monroe County v. Mary Ellen Lloyd **CAM-03-362**
Circuit Court 16th **Judge: Jones** **Date Filed: 12/19/03**
Code enforcement foreclosure action authorized by the BOCC 4/18/03.
The total amount of the lien owed to the County is \$143,500.00.
Growth Management/Code Enforcement **RBS**

Current Status: Clarifying double filing by prior counsel.

Next Activity: Draft settlement agreement with Defendant.

V&B Fees billed to date: None **Costs:** 0.00
CAY Time: 2.3 hours

Monroe County v. Arthur Mehr **CAP-05-348**
Circuit Court 16th **Judge: Garcia** **Date Filed: 8/5/05**
Code fine collection action. Fine exceeds \$42,000.00.
Growth Management/Code Enforcement **RBS**

Current Status: Motions to compel discovery filed.

Next Activity: Hearing 4/5/6.

Time: 8.1 hours **Costs:** \$850.00.

Monroe County v. James Messera, et al **CAK-03-1509**
Circuit Court 16th **Judge: Payne** **Date Filed: 12/18/03**
Code enforcement foreclosure action authorized by the BOCC 4/18/03.
Growth Management/Code Enforcement **RBS**

Current Status: Discovery process

Next Activity: Discovery.

V & B Fees billed to date: None **Costs:** 0.00
CAY Time: 3.0

Monroe County v. Outland Properties **CAP-05-400**
Circuit Court 16th **Judge: Garcia** **Date Filed: 9/9/5**
Collection action authorized by BOCC on 10/17/04. Fine over \$225,000.00.
Growth Management/Code Enforcement **PJM**

Current Status: Defendant served.

Next Activity: Discovery.

Time: 1.6 hours **Costs:** 300.00

Monroe County v. Joe Posada, III **CAK-03-1503**
Circuit Court 16th **Judge: Payne** **Date Filed: 12/18/03**
Code enforcement foreclosure action authorized by the BOCC 4/18/03.
Growth Management/Code Enforcement **RBS**

Current Status: Settlement negotiations pending.

Next Activity: If unsuccessful, April 2006 bench trial.

V & B Fees & Costs billed to date: None.
CAY Time: 4.6 hours

Monroe County v. Virginia Sawyer & Tony Welters **CAK-03-1505**
Circuit Court 16th **Judge: Payne** **Date Filed: 12/18/03**
Code enforcement foreclosure action that was authorized by the BOCC 7/15/03.
Growth Management/Code Enforcement **RBS**

Current Status: Settlement negotiations pending.

Next Activity: If unsuccessful, move for summary judgment.

V & B Fees billed to date: None **Costs:** 0.00
CAY Time: 2.0

Monroe County v. Virginia Sawyer **CAK-03-1506**
Circuit Court 16th **Judge: Jones** **Date Filed: 12/18/03**
Code enforcement foreclosure action that was authorized by the BOCC 7/15/03.
Growth Management/Code Enforcement **RBS**

Current Status: Court approved settlement agreement, injunction, lien.

Next Activity: Enforcement if not compliance.

V&B Fees & Costs billed to date: \$11,745.44
CAY Time: 6.7 hours

Monroe County v. Louis Welters **CAK-04-639**
Circuit Court 16th **Judge: Jones** **Date Filed: 6/14/04**
Code enforcement foreclosure action that was authorized by the BOCC 7/15/03.
Growth Management/Code Enforcement **RBS**

Current Status: Settlement negotiations pending.

Next Activity: If unsuccessful, move for summary judgment.

V&B Fees billed to date: None **Costs:** 0.00
CAY Time: 2.5

O'Daniel, John & Theresa Hill v. Monroe County **CA P 02-141**
Circuit Court 16th **Judge: Garcia** **Date Filed: 3/13/02**
Appeal of code enforcement action and vested rights claim.
Growth Management/Code Enforcement/Planning **JDS**

Current Status: Mandate from Third DCA received 1/13/06.

Next Activity: Status inquiry with chambers pending.

M&H Billing to date: \$42,782.73 as of 10/31/05
CAY Time: 2.5

O'Daniel & Hill v. Monroe County **3D-05-583**
Third DCA **Judges: TBA** **Date Filed: 3/18/05**
Appeal of circuit court decision in CA P 02-141.
Growth Management/Code Enforcement/Planning **JDS**

Current Status: Mandate issued 12/27/05.

Next Activity: None. Close file.

M&H Billing to date: *See trial level report.*
CAY Time: 1.5

Neumont, Elizabeth et al. v. Monroe County **99-10054-CV**
U.S. Dist. Ct., S.D.Fla. **Judge: Paine** **Date Filed: 5/21/99**
Class action challenging enactment of vacation rental ordinance.
Growth Management/Planning **RBS**

Current Status: Briefs completed.

Next Activity: Finalize motion for substitution of counsel of CAY for former counsel.

M&H Billing to date: \$123,563.24.
CAY Time: 0.5

Neumont, Elizabeth et al. v. Monroe County **04-13610-X**
11th Circuit Court of Appeals **Judges: TBA** **Date Filed: 7/15/04**
Appeal of 99-10054-CV above.
Growth Management/Planning **RBS**

Current Status: Awaiting decision of the Court.

Next Activity: Finalize motion for substitution of counsel of CAY for former counsel.

Billing to date: \$123,565.49 as of 8/31/05 (by former outside counsel).
CAY Time: 0.5

Nunziante, Marilyn v. Monroe County **CAK-04-1227**
Circuit Court 16th **Judge: Jones** **Date Filed: 11/18/04**
Suit challenging Bayshore's rule requiring family members to subsidize residents.
Community Services/Social Services **RBS**

Current Status: PL has passed away.

Next Activity: County's motion to dismiss to be heard 3/23/06 at 4:30 pm.

Time: 76.7 hours **Costs:** 0.00

Sierra Club, et al v. DCA, Miami Dade & City of Homestead **03-150-GM**
DOAH **Judge: Maloney** **Date Filed: 1/17/03**
County intervened in administrative challenge to amendment of Miami-Dade's
comp. plan redesignating Krome Avenue to a major roadway (3 or more lanes).
Growth Management/Planning **JDS**

Current Status: Proposed Recommended Order filed 2/3/6.

Next Activity: Await ruling by ALJ.

Billing to date: None, *pro bono*. (by former outside counsel).
CAY Time: 6.0

Teal, Kimberly & Keith v. Michael Angel, Monroe County, et al **CAM-04-404**
Circuit Court 16th **Judge: Payne** **Date Filed: 12/16/04**
Declaratory judgment action over road in City of Marathon.
Public Works/Roads and Bridges **PJM**

Current Status: Discovery. Settlement negotiations ongoing.

Next Activity: County's motion to dismiss TBA pending negotiations.

Time: 9.5 hours **Costs:** \$133.00

Troy, Daniel Scott v. Monroe County **CAK 05-856**
Circuit Court 16th **Judge: Jones** **Date Filed: 8/24/05**
Mandamus action seeking after the fact building permits.
Growth Management/Planning **RBS**

Current Status: On appeal in 3D 05-2419.

Next Activity: None while on appeal.

Time: 2.0 hours **Costs:** 0.00

Troy, Daniel Scott v. Monroe County **3D 05-2419**
Third DCA **Judges: TBA** **Date Filed: 10/7/05**
Appeal of denial of writ of mandamus in CA K 05-856.
Growth Management/Planning **RBS**

Current Status: Troy given until 3/23/06 to file his brief.

Next Activity: Draft reply to Troy's brief whenever it arrives.

Time: .7 **Costs:** 0.00

Walgreens & Gadinsky v. Monroe County

CAK-05-266

Circuit Court 16th

Judge: Taylor

Date Filed: 3/11/05

Cert. review of DOAH order upholding 1/6 findings supporting denial of major conditional use application for Big Pine Walgreens.

Growth Management/Planning

RBS

Current Status: Negotiations ongoing.

Next Activity: Finalize agreement and present to BOCC & Court for OK.

Time: 33.8 hours

Costs: \$318.57

In re: Winn Dixie Stores, Inc.

05-03817-3F1

U.S. Bankruptcy Ct., M.D.Fla.

Judge: Jerry Funk

Date Filed: 2/25/05

Voluntary Ch11 case where County *might* have a claim against the estate.

Bankruptcy

RBS

Current Status: Could find no basis for filing proof of claim.

Next Activity: None needed.

Time: 0.9 hours

Costs: 0.00

CAY POST JUDGMENT CASES

Evans, Brian v. Monroe County, et al **04-CIV-10033-JLK**
U.S. Dist., S.D. Fla. (Miami) Judge: King **Date Filed: 5/6/04**
Money Judgment of \$4,579.00 in favor of County & MCSO for rule 11 sanctions.
Constitutional Officer/MCSO **RBS**

Current Status: \$4,579.00 in fees awarded to County & MCSO.

Next Activity: Collection.

CAY Time: 9.5 hours

Costs: 0.00

Monroe County v. William L. Davis **CAP-04-181**
Circuit Court 16th Judge: Garcia **Date Filed: 4/15/04**
Money judgment of **\$27,600.00** for unpaid code enforcement fines and costs.
Growth Management/Code Enforcement **RBS**

Current Status: Final judgment of \$28,431.00 recorded w/ Dept. of State.

Next Activity: Collection.

Time: 6.2 hours

Costs: \$56.00

Monroe County v. Dan Gleason **SCP-03-165**
County Court (Sm. Claims) Judge: Ptomey **Date Filed: 8/5/03**
Money judgment of **\$520.00** for unpaid code enforcement fines and costs.
Growth Management/Code Enforcement **RBS**

Current Status: Final judgment recorded w/ Dept. of State.

Next Activity: Collection.

Time: 9.5 hours

Costs: \$65.92

Monroe County v. Lily Marks **CAK-03-1152**
Circuit Court 16th Judge: Jones **Date Filed: 10/2/03**
Money judgment of \$795,270.00 for unpaid code enforcement fines and costs.
Growth Management/Code Enforcement **RBS**

Current Status: Final judgment entered for \$795,270.00 on 5/9/05.

Next Activity: Collection.

Time: 8.5 hours

Costs: \$55.00

POTENTIAL CASES THAT HAVE NOT YET BEEN FILED

Bott, Andrew & Donna v. City of Marathon **CA M 05-267**

Circuit Court (16th) **Judge: Payne** **Date Filed: 9/30/05**

Declaratory Judgment action challenging validity of affordable housing deed restriction City of Marathon inherited from County at time of incorporation.

Growth Management/Planning

RBS

Current Status: Seeking BOCC authorization to intervene 3/15/06.

Next Activity: If authorized, file motion to intervene and set for a hearing.

Time: 1.1 **Costs:** 0.00

Calusa Campground Condo v. Monroe County, et al., **CA P 06 TBA**

Circuit Court (16th) **Judge:** **Date Filed:**

Threatened action by condominium resulting from statements regarding platting requirements by Growth Management personnel.

Growth Management/Planning

JDS

Current Status: Investigating claim and assisting Growth Management Division in preparation of responses to claimant.

Next Activity: Awaiting claimant's filing proper subdivision plat for approval.

Time: 2.5 **Costs:** 0.00

Good, Lloyd v. Monroe County **CAK-05-TBA**

Circuit Court (16th) **Judge:** **Date Filed:**

Bert J. Harris Act claim regarding two parcels of property owned by Lloyd Good.

Growth Management/Planning

RBS

Current Status: Settlement discussions underway.

Next Activity: None. Stayed during Good's application for major conditional use.

Time: 8.6 hours **Costs:** \$5.56

Hamelton, Charles v. KWRU & Monroe County **CA K 04-740**
Circuit Court (16th) **Judge: Miller** **Date Filed: 7/6/04**
Potential personal injury claim by scooter accident victim and/or utility seeking damages from the County. Handled jointly with Johnson, Anselmo.
Public Works/Roads and Bridges/Risk Management **RBS**

Current Status: County not a party at this time.

Next Activity: Deposition of County witnesses 3/17/06.

Fees Billed to Date: 0.00 **Costs:** 0.00
CAY Time: 6.7

Monroe County v. Estate of Thomas O'Brien **SCK-05-TBA**
Small Claims Monroe **Judge: TBA** **Date Filed:**
Action against estate to collect unpaid ambulance bill of \$861.81. Probate case is CP K 05-164.
Emergency Services/EMS **RBS**

Current Status: Settlement agreement signed.

Next Activity: Awaiting court approval and payment.

Time: 3.2 **Costs:** 0.00

State of Florida v. Monroe County **TBA**
TBA **Judge: TBA** **Date Filed: n/a**
Threatened action by AG's Medicaid Fraud unit regarding alleged over billings for ambulance services.
Public Safety/Fire Rescue **RBS**

Current Status: Waiting for AG's office to set up conference.

Next Activity: Settlement conference with State.

Time: 9.2 hours **Costs:** 0.00

CASES BEING LITIGATED BY OUTSIDE COUNSEL

Ferencik, Libanoff, Brandt, Bustamante and Williams, P.A.

Monroe County v. Bender & Associates, et al **CAK-03-915**

Circuit Court 16th **Judge: Jones** **Date Filed: 8/4/03**

Breach of contract and negligent misrepresentation action arising from the defective windows in the Gato building.

Engineering/Construction Management **RBS**

Current Status: Discovery ongoing.

Next Activity: Discovery ongoing.

Fees billed to date: \$89,487.00 **Costs:** \$10,829.09 (thru 12/31/5)

Monroe County v. Jose Gonzalez **CA K TBA**

Circuit Court 16th **Judge: TBA** **Date Filed: TBA**

Possible breach of contract action against County's former architect.

Engineering/Construction Management **RBS**

Current Status: Discussions with Gonzalez

Next Activity: Schedule meeting with staff & Gonzalez.

Fees billed to Date: \$10,145.00 **Costs:** \$872.33 (thru 12/31/05)

CAY Time: 12.5

Monroe County v. Lodge Construction, et al **CAK-00-617**

Circuit Court 16th **Judge: Payne** **Date Filed: 5/11/00**

Suit filed against general contractor Lodge Construction & its surety for breach of contract to build Gato Building.

Engineering/Construction Management **RBS**

Current Status: Trial preparations.

Next Activity: Trial reset from April 2006 until future date.

Fees billed to date: \$298,065.26 **Costs:** \$71,523.31 (thru 12/31/05).

Tropex Construction Service, Inc. v. Monroe County **CA P 06-44**
Circuit Court 16th **Judge: Garcia** **Date Filed: 1/30/06**
Breach of contract suit filed by contractor who terminated contract to build
Tavernier Fire Station before commencement of construction.
Engineering/Construction Management **RBS**

Current Status: County filed motion to dismiss on 3/6/6.

Next Activity: BOCC to approve Libanoff contract 3/15/6.

Billing Received to date: none.
CAY Time: 1.1 **Costs:** 0.00

Johnson, Anselmo, Murdoch, Burke, Piper, & McDuff, P.A.

Bauknight, Skaggs & Rockett v. Monroe County **CAP-04-451**
Circuit Court 16th **Judge: Garcia** **Date Filed: 9/24/04**
Inverse condemnation/takings case filed by Jimmy & Nancy Bauknight, Teague
Skaggs, & Kathleen Rockett for three lots on Big Pine Key. Mayor served 10/4/4.
Growth Management/Planning **RBS**

Current Status: Third party complaint against State filed 1/11/06.

Next Activity: Discovery.

Fees billed to date: \$832.24 **Costs:** 0.00

Bauknight, Skaggs & Rockett v. Monroe County **04-CV-10105**
U.S. D.C. S.Fla. **Judge: Moore** **Date Filed: 11/1/04**
Inverse condemnation/takings case by owners of 3 Big Pine lots.
Growth Management/Planning **RBS**

Current Status: All but fees remanded to State Court. Denial of fees motion
appealed to 11th Circuit.

Next Activity: None.

Fees billed to date: None **Costs:** 0.00

Bauknight, et al. v. Monroe County **05-10868-F**
11th Cir. Ct. of Appeals **Judge: TBA** **Date Filed: 2/11/05**

Appeal of denial of attorney's fees motion filed against the County by takings case plaintiffs. County had removed the case to Federal Court; plaintiffs sought remand and attorneys fees. Case was remanded to state court but fees denied. Plaintiffs are seeking between \$15,000 and \$18,000 in fees.

Growth Management/Planning **RBS**

Current Status: Briefs completed; oral argument held 12/9/05.

Next Activity: None; await decision of Court.

Fees billed to date: None. **Costs:** 0.00

Florida Key Deer v. Michael Brown & Gale Norton **90-10037-CIV-Moore**
U.S. Dist. Ct., SD Fla. **Judge: Moore** **Date Filed: 4/2/90**

ESA case that resulted in permanent injunction barring FEMA flood insurance.

Growth Management/Planning **RBS**

Current Status: Case closed:Dismissed with prejudice

Next Activity:

Billing to Date: none **Costs:** 0.00

CAY Time: 33.8

Florida Key Deer, et al v. R.D. Paulson, et al **05-16374-II**
11th Circuit **Judges: TBA** **Date Filed: 11/10/05**

Appeal of Southern District's injunction in 90-10037-CIV.

Growth Management/Planning **RBS**

Current Status: Jurisdiction briefs requested by Court.

Next Activity: File jurisdiction briefs.

Billing to date: none
CAY Time: 0.5 **Costs:** 0.00

Monroe County v. Florida Key Deer, et al **05-16990-II**
11th Circuit **Judges: TBA** **Date Filed: 12/12/05**
Appeal of denial of County's motion to intervene in 90-10037-CIV.
Growth Management/Planning **RBS**

Current Status: Preliminary jurisdiction questions pending.

Next Activity: Draft briefs.

Billing to Date: None
CAY Time: 0.5

Florida Key Deer, et al v. Gale Norton (Sec. of Interior) **05-10063-CIV-KING**
U.S.D.C. S.D.Fla. **Judge: King** **Date Filed: 6/15/05**
ESA challenge to F&WS review of construction of park on Big Pine Key.
Engineering/Construction Management **RBS**

Current Status: Dismissed with prejudice by agreement on 2/13/06 because revised biological opinion satisfactory to Plaintiffs.

Next Activity: Resolve any attorneys fees & costs motions.

Fees billed to date: \$612.50 **Costs:** 0.00
CAY Time: 6.5

Hyland, Thomas G. v. D. Kolhage & R. Thurston **04-10102-CIV**
U.S.D.C.SD.Fla. **Judge: Highsmith** **Date Filed: 10/21/04**
Civil Rights action against Deputy Clerk of Court by inmate. **Constitutional**
Officer/Clerk **RBS**

Current Status: Kolhage filed motion to dismiss.

Next Activity: Await ruling from Court on Kolhage's Motion to Dismiss.

CAY Time: 2.8
Fees & Costs billed to date: \$5,207.12

FKCC & Last Stand v. FL Admin. Comm., Monroe County **DOAH 04-2756**
DOAH **Judge: Carolyn Holifield** **Date Filed: 08/05/04**
Administrative Rule challenge to partnership agreement with State.
Growth Management/Planning **RBS**

Current Status: Final Order in County's favor issued 6/29/05.

Next Activity: None pending appeal.

Fees billed to date: \$59,464.92 **Costs:** 0.00
CAY Time: 190.1 hours

FKCC & Last Stand v. FL Admin. Comm., Monroe County, et al **3D05-1800**
Third DCA **Judges: TBA** **Date Filed: 7/28/05**
Appeal of ALJ's decision denying rule challenge in DOAH 04-2756.
Growth Management/Planning **RBS**

Current Status: Appellant's brief filed.

Next Activity: County & DCA's brief deadline extended until after
disposition of Marathon's motion to dismiss.

Fees billed to date: none
CAY Time: 0.5 hours **Costs:** 0.00

Hardee, Evelyn v. Monroe County **CAP-05-255**
Circuit Court 16th **Judge: Garcia** **Date Filed: 6/3/05**
Tort action arising from alleged fall at PK Court house.
Risk Management/Public Works **RBS**

Current Status: PL Deposition for 3/6/6 reset for May 2006.

Next Activity: Depositions 4/25-6/06

Fees billed to date: \$5694.33 (thru 1/31/06).
CAY Time: 8.9 hours

Kessler, Stuart v. Monroe County & Tom Willi **CA K 05-1006**
Circuit Court 16th **Judge: Jones** **Date Filed: 10/11/2005**
Complaint for injunctive relief and damages under Whistle-Blower Act, Civil
Rights Act, defamation and interference with business relationship.
Personnel/Risk Management **RBS**

Current Status: County moved to dismiss Kessler's second amended
complaint 2/1/6.

Next Activity: Hearing on motion to dismiss, 4/11/06.

Fees & Costs billed to date: \$11,554.97 (thru 1/31/6)
CAY Time: 28.6

Kessler, Stuart v. Monroe County & Tom Willi **3D05-2755**
Third DCA **Judges: TBA** **Date Filed: 11/28/05**
Appeal of non-final order denying Kessler's petition for temporary reinstatement.
Personnel/Risk Management **RBS**

Current Status: County filed appellate brief 2/2/6.

Next Activity: Kessler response brief due 2/13/06.

Billing to date: see CA K 05-1006
CAY Time: 2.0 **Costs:** 0.00

Neuman, Kenneth v. Monroe County **CAK-04-663**
Circuit Court 16th **Judge: Jones** **Date Filed: 6/21/04**
Action for damages and to compel County to issue building permits.
Growth Management/Planning **RBS**

Current Status: Discovery.

Next Activity: Discovery.

Fees billed to date: \$2,326.92 **Costs:** 0.00
CAY Time: 5.8 hours

Riverview Consultants, Inc. v. Monroe County **CAK-05-373**
Circuit Court 16th **Judge: Jones** **Date Filed: 4/13/05**
Case alleging tortious interference with contract by airport DBE subcontractor.
Risk Management/Airport/MCSO **PJM**

Current Status: Discovery.

Next Activity: Discovery.

Fees billed to date: \$743.86 **Costs:** 0.00
CAY Time: 4.5 hours

Paul, Hastings (Bob Freilich & Derek Howard)

Collins, Thomas, et al v. Monroe County **CAM-04-379**
Circuit Court 16th **Judge: Payne** **Date Filed: 11/22/04**
Takings action brought by 11 groups of plaintiffs.
Growth Management/Planning **RBS**

Current Status: Post summary judgment hearing briefs being completed.

Next Activity: Court's ruling on County's motion for summary judgment.

Total Fees billed to date: \$830,901.46 (thru 1/18/06)
CAY Time: 150.8 hours **Costs:** \$87,482.06

Emmert, Helen & Greg v. Monroe County **CA P 02-520**
Circuit Court 16th **Judge: Garcia** **Date Filed: 10/2/02**
Inverse condemnation and vested rights action.
Growth Management/Planning **RBS/JDS**

Current Status: Motion to dismiss pending.

Next Activity: Hearings on MC's Motion to Dismiss & PL M4 SJ 3/13/6;
BOCC to hear settlement offer on 3/15/6.

P, H Billing to date: None
M&H Billing to date: \$94,550.56 as of 10/31/05
CAY Time: 10.5

Galleon Bay v. Monroe County v. State of Florida **CA K 02-595**
Circuit Court 16th **Judge: Payne** **Date Filed: 5/21/02**
Inverse condemnation and vested rights action.
Growth Management/Planning **RBS**

Current Status: Summary judgment as to liability granted 1/30/06.

Next Activity: Await ruling on County's motion for rehearing.

M & H Billing to date: \$221,709.88 thru 10/31/05.
Paul, Hastings Billing: \$162,385.00 **Costs:** \$1,009.16
CAY TIME: 56.5

The Smith Law Firm

Monroe County v. Post Buckley, Schuh, and Jernigan **CAK-95-402**
Circuit Court 16th **Judge: Payne** **Date Filed: 3/30/95**
Malpractice claim against the County's former engineering firm for miscalculation
of bonds necessary to finance improvements to Card Sound Road.
Engineering **RBS**

Current Status: Settled remaining issue.

Next Activity: Close file once dismissed by Court.

Fees & Costs billed to date: \$645,606.54
(doesn't include PBSJ fees paid of \$282,745.01)

Monroe County v. Post Buckley, Schuh, and Jernigan **3D05-1822**
Third DCA **Judges: TBA** **Date Filed: 8/1/05.**
Appeal of judgment in the above case.
Engineering **RBS**

Current Status: Dismissed by stipulation 3/8/6.

Next Activity: Close file after final bill paid.

Fees billed to date: see previous entry.

Vernis & Bowling of the Florida Keys, P.A.

GAP Properties of SW Florida-I, Inc. v. Monroe County CAK-04-1321

Circuit Court 16th Judge: Jones Date Filed: 12/10/04

Cert. review of action involving failure to obtain plat approval of dock subdivision and an improper change of use without a major or minor conditional use permit.

Growth Management/Planning RBS

Current Status: Certiorari denied, rehearing motion denied. Settlement discussions ongoing.

Next Activity: Present settlement proposal to BOCC on 3/15/6.

Fees billed to date: \$26,875.00 **Costs:** \$306.43

Gap Properties of SW Florida-I, Inc. v. Monroe County 3D05-2413

Third DCA Judges: TBA Date Filed: 10/14/5

Second tier certiorari appeal of denial of petition challenging County's plat approval rules for dockominiums, see CA K 04-1321 below.

Growth Management/Planning RBS

Current Status: County's amended motion to dismiss pending.

Next Activity: Ruling on motion; settlement discussions pending.

Fees billed to date: see trial level **Costs:** None

Key Tex S. D. Condo Assoc. v. Monroe County & T. McGarry CAK-04-224

Circuit Court 16th Judge: Jones Date Filed: 3/2/04

Action to prevent County from denying permits because of ownership conversion to condominiums and compel County to accept permit applications.

Growth Management/Planning RBS

Current Status: Motion to dismiss pending; settlement discussions ongoing.

Next Activity: Settlement proposal to be presented to BOCC on 3/15/6;
Hearing on motion to dismiss reset to 4/20/6.

Fees billed to date: \$32,290.50 **Costs:** \$2,540.84

Osborn, Jeff v. Monroe County **CAP-04-564**
Circuit Court 16th **Judge: Garcia** **Date Filed: 11/24/04**
1 of 2 certiorari petitions challenging development approval of Northstar project.
Growth Management/Planning **RBS**

Current Status: Court denied petition 12/14/05.

Next Activity: None pending appeal.

Fees billed to date: \$14,039.50 **Costs:** \$261.49

Osborn, Jeff v. Monroe County **3D06-52**
Third DCA **Judges: TBA** **Date Filed: 1/11/06**
Certiorari appeal of CA P 04-564 on Northstar Project. V & B handling. **RBS**
Growth Management/Planning

Current Status: Motion to dismiss filed.

Next Activity: Await ruling on Motion to Dismiss

Billing received to date: see billings for CA P 04-564.

Osborn, Jeff v. Monroe County **CAP-04-565**
Circuit Court 16th **Judge: Garcia** **Date Filed: 11/24/04**
2 of 2 certiorari petitions challenging development approval of Northstar project.
Growth Management/Planning **RBS**

Current Status: Oral argument held 12/15/05.

Next Activity: Await decision of Court.

Fees billed to date: \$3,920.50 **Costs:** \$146.93

Assigned Assistant County Attorney

PJM = Pedro Mercado

JDS = Jerry Sanders

RBS = Bob Shillinger